

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JACQUELYN PEDIGO, on Behalf )  
of Herself and Others )  
Similarly Situated, )  
 )  
Plaintiffs, ) CIVIL ACTION  
 ) NO. 1:08-cv-803JRN  
VS. )  
 )  
3003 SOUTH LAMAR, LLP )  
D/b/a ALLIGATOR GRILL, )  
Defendant. )

ORIGINAL

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ORAL AND VIDEOTAPED DEPOSITION OF

DAVID GEBSER

MAY 20, 2009

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ORAL AND VIDEOTAPED DEPOSITION OF DAVID GEBSER,  
produced as a witness at the instance of the Plaintiff,  
and duly sworn, was taken in the above-styled and  
numbered cause on the 20th day of May, 2009, from  
11:43 a.m. to 12:43 a.m., before Cynthia Warren, CSR in  
and for the State of Texas, reported by machine  
shorthand, at the offices of Orr & Olavson, 804 Rio  
Grande Street, Austin, Texas 78701, pursuant to the  
Federal Rules of Civil Procedure and/or the provisions  
stated on the record.

EXHIBIT

9

tabbles

1 previously I only worked for the old Alligator Grill.

2 Q. Are you a W-2 employee?

3 A. Yes, sir.

4 Q. Do you have any ownership interest or receive  
5 any participation from profits?

6 A. No, sir.

7 Q. We had the benefit of visiting with  
8 Mr. Wimberly before your deposition this morning. I  
9 understand generally the hierarchy and the management of  
10 the restaurant, but I want to make sure that I  
11 understand your role. First of all, do you participate  
12 in the management of the restaurant or its employees?

13 A. In my estimation, no.

14 Q. For instance, do you interview potential  
15 employees, servers, cooks, that type of thing?

16 A. No, sir.

17 Q. Do you have the authority to hire and/or fire  
18 any employees?

19 A. No, sir.

20 Q. Do you make any of the schedules that the  
21 employees have to follow?

22 A. No, sir.

23 Q. Why don't you summarize, the best you can, your  
24 role for the Alligator Grill.

25 A. Record-keeping, paperwork, bookkeeping and

1 accounts payable, payroll. Sort of keep an eye on the  
2 managers for Steve, but I have my own office there and  
3 they've got their office.

4 Q. The managers -- as I understand it, the general  
5 manager is Paul Blanford?

6 A. Blanford, yes, sir.

7 Q. Who are the other managers?

8 A. We've got two hourly managers, Lynde Rolhoff  
9 and Adrian Victorian.

10 Q. When did Adrian Victorian become a manager --  
11 assistant manager, if you know?

12 A. Late winter, the best of my ...

13 Q. Just a couple of months ago, six months ago?

14 A. Yes, sir. January, February, something like  
15 that.

16 Q. Robb Meyer is a former assistant manager; is  
17 that right?

18 A. Yes, sir.

19 Q. Is Mr. Meyer still employed there?

20 A. No, sir.

21 Q. Now, I had an opportunity to go through some of  
22 the policies and procedures, training manuals that the  
23 Alligator Grill has, and I want to ask you a few  
24 questions about those. First of all, do you know  
25 anything about the policies and procedures at the

1 Q. So you mailed checks to the ex-employees?

2 A. Yes, sir.

3 Q. And you handed out checks to the current  
4 employees?

5 A. Handing out, yes, to the current.

6 Q. What about the 11 or so folks that I represent  
7 in this case, have they been given a check?

8 A. I believe that two of them were offered them  
9 yesterday evening after I had left. I left the  
10 information with Paul.

11 MR. DEBES: I'm just going to instruct --  
12 I'm going to ask as a courtesy, but I'm really going to  
13 instruct it, that no checks be tendered to my clients.

14 MR. ORR: That's fine. You heard that?

15 THE WITNESS: I heard that.

16 MR. ORR: We're going to do that. We're  
17 not going to tender any checks.

18 THE WITNESS: That's not a problem.

19 MR. DEBES: Thank you.

20 Q. (By Mr. Debes) Whose decision was it to pay  
21 the servers \$3.19 an hour for overtime hours?

22 A. It would have to be mine.

23 Q. And presumably you know that that's an error,  
24 correct?

25 A. I do now, yes, sir.